IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT
THE HON'BLE MR JUSTICE K.C. BHANU
WRIT PETITION NO : 1221 of 2005

Between:
Nagula Swamy, S/o. Naga Reddy,
E.No. 303207, R/o. Jhari (V), Talamadugu, Adilabad District.
..... PETITIONER

AND

1 Depot Manager, APSRTC, Adilabad.
2 Industrial Tribunal-cum-Labour Court at Godavarikhani, rep by its Presiding Officer
.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Certiorari calling for entire record, pertaining to ID No. 58/1996 from the file of 2nd respondent i.e., Industrial Tribunal-cum-Labour Court at Godavarikhani and all connected records from 1st respondent, examine the same and quash the award of 2nd respondent and consequently direct the 1st respondent to reinstate the petitioner into service of Corporation with all attendant benefits.

Counsel for the Petitioner: MR.SATYANARAYANA NIMMAGADDA

Counsel for the Respondent No.1: Sri V.T.M. Prasad, S.C. for APSRTC

Counsel for the Respondent No.2: GP FOR LABOUR

The Court, at the stage of admission, made the following :

ORAL ORDER:

This writ petition is filed challenging the award, dated 4.8.2000 passed by the 2nd respondent-Tribunal in I.D.No.58 of 1996.

The petitioner was appointed as Conductor on 6.4.1987. A check was conducted on 15.8.1993 wherein it was found that the petitioner issued tickets to two passengers for Rs.9.75 each. Out of Rs.9.75, two tickets of seven rupee denomination were issued with combination of ticket of Rs.2.75 denomination in the direct trip at stage No.8 and accounted in the Statistical Return. It was also found that the petitioner collected Rs.3.30 from a passenger and issued ticket of Rs.2.25 denomination whereas the fare was Rs.3.50. On 25.2.1994, based on the departmental enquiry, the disciplinary authority ordered removal of the petitioner's service. Challenging the same, the petitioner raised an industrial dispute before the Tribunal and it was dismissed. Aggrieved by the same, this writ petition has been filed.

Heard the learned counsel for the petitioner and the learned standing counsel for the respondents and perused the material on record.

The learned counsel for the petitioner has contended that the Tribunal did not give any opportunity to the

petitioner and passed the award without applying the principles of natural justice and therefore, the award is illegal.

On the other hand, the learned standing counsel for the 1st respondent has contended that the petitioner admitted his guilt in the enquiry and though several opportunities were given to the petitioner, he did not avail anyone of them. Therefore, the Tribunal passed the award which does not suffer from any incurable legal infirmities so as to call for interference by this Court.

It is a case of serious ticket and cash irregularities. As seen from the findings of the Labour Court it is clear that the petitioner himself admitted in Ex.M4 that he issued a ticket with lower denomination to one passenger. Even in the grounds of appeal, no challenge is made with regard to the manner of conducting enquiry. It is not a case of denial of opportunity to adduce evidence nor is it a case where the findings are not based on the evidence in the departmental proceedings. Perhaps, that is the reason why the Tribunal gave a categorical finding that the enquiry conducted by the Enquiry Officer is found to be true and correct. In this writ petition, no challenge has been made with regard to the manner of conducting enquiry, moreover, nothing has been stated except a mere allegation that the department has not followed the principles of natural justice. The only question remains to be answered is whether the proved misconduct is disproportionate to the punishment imposed. Since it is a

cash and ticket irregularity, the petitioner was removed from service. The Tribunal upheld the said punishment of removal from service. Insofar as not giving any opportunity to the petitioner by the Tribunal is concerned, it is totally misconceived and incorrect in view of the fact that neither the petitioner nor his counsel was present on the day when the matter was called for enquiry. It is a case which does not deserve sympathy in view of the fact that the petitioner admitted that he issued tickets of seven-rupee denomination which were already sold and accounted for in the first trip. In view of the financial irregularities, the petitioner needs no sympathy from this Court. Therefore, the proved misconduct is completely in proportion to the punishment imposed and the writ petition is totally devoid of merit.

The writ petition is accordingly dismissed at the stage of admission. In the circumstances of the case, there shall be no order as to costs.

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(K.C. BHANU, J.)

17th February, 2005.

bcj

To

1 Depot Manager, APSRTC, Adilabad.
2 The Presiding Officer, Industrial Tribunal-cum-Labour Court at Godavarikhani,
3 Two C.Cs. to the Government Pleader for Labour, High Court Buildings, Hyderabad (OUT).
4 Two C.D. copies